

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MARIA RUEDA,

Plaintiff,

v.

**PREFERRED DISTRIBUTION
SERVICES, L.L.C.,**

Defendant.

§
§
§
§
§
§
§
§
§
§

Cause No. 3:17-cv-00040

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1331, Defendant, **PREFERRED DISTRIBUTION SERVICES, LLC**, files this notice of removal from the 327th Judicial District court in El Paso County, Texas to the United States District Court for the Western District of Texas, El Paso Division. The grounds for removal are as follows:

1. Plaintiff, **MARIA RUEDA** (hereinafter “Plaintiff”), commenced this action by filing an Original Petition (hereinafter referred to as the “Complaint”) on November 10, 2016 in the 327th Judicial District court in El Paso County, Texas. The case was docketed as Cause No. 2016DCV4199 and styled *Maria Rueda v. Preferred Distribution Services, LLC, Cause No. 2016DCV4199*. A copy of Plaintiff’s Complaint was never served on Defendant.¹ On January 10, 2017, Plaintiff filed an Amended Original Petition (hereinafter referred to as the “Amended Complaint”). A copy of the Amended Complaint was first served on the Defendant on January 23, 2017. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed.

¹ Please refer to the docket sheet included with the state court filings attached hereto as Exhibit A confirming that service of Plaintiff’s Complaint was never effectuated upon Defendant in this cause.

Defendant consents to this removal. True and correct copies of the Complaints and Citation for Personal Service are attached hereto as Exhibit A.

2. Concurrent with the filing of this notice, Defendant is serving this notice upon Plaintiff's counsel and filing a copy of the notice with the Clerk of Court for the County Court of El Paso County, Texas.

Grounds for Removal

4. This case is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331. The Plaintiff's Complaint contains a claim arising under federal law pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq. Specifically, Plaintiff alleges she was a non-exempt employee who was denied overtime compensation. In addition, any and all state law claims joined with Plaintiff's federal claim may be removed pursuant to 28. U.S.C. § 1441(c).

5. Pursuant to 28 U.S.C. §§ 1331 and 1441, removal of the above-titled state court action to this Court is appropriate. Further, pursuant to 28 U.S.C. § 124(d)(3), removal to this Court is proper because El Paso County, Texas is located within the jurisdiction of the United States District Court for the Western District of Texas, El Paso Division. No responsive pleadings to Plaintiff's Petition have been filed in the underlying state court action.

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process and pleadings from the state court from which this removal is sought that has been served on Defendant is attached hereto as Exhibit A.

WHEREFORE PREMISES CONSIDERED, Defendant, PREFERRED DISTRIBUTION SERVICES, LLC, respectfully requests that this Court assume full jurisdiction over this action.

Respectfully submitted,

**LAW OFFICE OF
DIANA MACIAS VALDEZ, PLLC**
5845 Cromo Drive, Suite One
El Paso, Texas 79912
T: (915) 503-1290
F: (915) 503-1291
E: dvaldez@dianamvaldezlaw.com

By: /s/ Diana M. Valdez
DIANA M. VALDEZ
State Bar No. 24047019
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2017 I filed this document electronically through the CM/ECF system, which caused the following party or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing to the parties listed below:

Martinez & Martinez Law Firm, PLLC
Attorneys for Plaintiff
Raymond D. Martinez
raymond@martinezlawyers.com
Jonathan L.R. Baeza
jonathan@martinezlawyers.com
730 E. Yandell Dr.
El Paso, Texas 79902

/s/ Diana M. Valdez
DIANA M. VALDEZ